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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,014	08/15/2001	Steve Goddard	UNL3058.1	1924

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EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/930,014

Applicant(s)

GODDARD, STEVE

Examiner

Jeffrey C. Pwu

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Narendran et al. (U.S. 6,070,191).

Dias et al. disclose a server and method for controlling a server for providing data to clients, the server comprising:

- a dispatcher (14-1) having a queue for storing requests received from clients; and at least one back-end server (16 – S₁, S₂, S₃); ("When a redirection server is initialized, it stores the above information in table form in its internal data structures. When a request for a document in directory /user1 is received in the redirection server, the redirection server performs a look-up into its internal table to check where the request should be directed. In this example, the document servers srv1, srv2 and srv3 possess the replicated directory /user1 and the above entry in htd.conf specifies that the redirection server should redirect any request for /user1 to srv1 and srv3 with a probability of 0.4 each, and to srv2 with a probability of 0.2. Using these probabilities, the redirection server chooses one document server and sends a redirect message with the relevant URL to the client, which then connects directly to the document server using this URL. In order to accommodate requests which come to the document servers directly, e.g.,

all the relative URLs inside a document server URL, the document servers may also have a configuration file. However, the configuration file at the document server may be slightly modified to prevent further redirection of requests which have to be served by that server.

Therefore, for directories and files which exist on a document server, e.g., srv1, the entry in the configuration file either does not exist or points to a directory in srv1.”)

- wherein the dispatcher stores in the queue one or more of the requests received from clients when the back-end server is unavailable to process said one or more requests; (col.15, line 14 -)

- wherein the dispatcher retrieves said one or more requests from the queue for forwarding to the back-end server when the back-end server becomes available to process said one or more requests (col.15, line 14 -); and

- wherein the dispatcher determines whether the back-end server is available to process said one or more requests by comparing a number of connections concurrently supported by the back-end server to a maximum number of concurrent connections that the back-end server is permitted to support, the maximum number being less than a maximum number of connections which the back-end server is capable of supporting concurrently. (“ Thus, the documents are distributed such that the load on each server is proportional to its capacity in terms of the maximum number of HTTP connections that it can support simultaneously. If $l.sub.1 = l.sub.2 = \dots l.sub.N$, all the document servers in the cluster

have the same capacity and such a cluster is referred to as homogeneous, as opposed to a heterogeneous cluster where the server capacities are non-uniform. In the homogeneous cluster case, the blocking probability is minimized if the access rates are made equal across all servers, assuming that the average document size on a server is the same across all the servers. If the document sizes are varied, then the average connection time per request will be different among requests and hence the length of the documents may be taken into account by defining the "access rate" to a document i as $r_{sub.i} = S_{sub.i} * \Delta_{sub.i}$ where $S_{sub.i}$ is the size of the document and $\Delta_{sub.i}$ is the rate of request to the document.")

- wherein the dispatcher is configured to monitor a performance of the back-end server, to define the maximum number of concurrent connections that the back-end server is permitted to support, and to dynamically adjust the maximum number in response to the monitored performance (col.5, lines 1-45).

- wherein the server is a cluster-based server comprising a plurality of back-end servers, the dispatcher is configured to store in the queue said one or more requests when none of the back-end servers are available to process said one or more requests, and the dispatcher is further configured to retrieve said one or more requests from the queue for forwarding to one of the back-end servers when said one of the back-end servers becomes available to process said one or more requests. (fig.1)

- wherein the dispatcher and the back-end server are implementing using COTS hardware (it is inherent to use any available commercially off-the shelf hardware); and
- defining a maximum number of concurrent connections that a server is permitted to support; limiting a number of concurrent connections supported by the server to the maximum number; monitoring the server's performance while it supports the concurrent connections; and dynamically adjusting the maximum number as a function of the server's performance to thereby control a performance factor for the server. (col.5, lines 1-45).

Response to Arguments

3. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



6/24/05

JEFFREY PWU
PRIMARY EXAMINER